

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (“DEQ/AQD”), Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, and Spartan Mechanical, LLC (“Spartan”), 4859 Burch Creek Drive, Ogden, Utah 84403, enter into this Settlement Agreement (“Agreement”) to fully and finally resolve without litigation the alleged violations cited in the DEQ Notice of Violation docket number 5396-14 (“Notice of Violation”). The Notice of Violation alleged that Spartan violated the Wyoming Air Quality Standards and Regulations (“Air Quality Rules”) by failing to perform a pre-renovation asbestos inspection and by failing to notify DEQ/AQD prior to disturbing asbestos-containing material during the renovations at the Best Western CottonTree Inn in Rawlins.

Wyo. Stat. Ann. § 35-11-901(a)(ii) (2013) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules, or other settlement conditions in lieu of litigation. To that end, Spartan and the DEQ/AQD hereby agree as follows:

1. Spartan is a Utah limited liability company. Spartan was hired to replace a water tank at the Best Western CottonTree Inn, located at 2221 West Spruce Street in Rawlins, Wyoming.
2. The DEQ/AQD is the executive branch agency of Wyoming government responsible for enforcing the Air Quality Rules.
3. Chapter 3, Section 8 of the Air Quality Rules requires all owners and operators of renovation activities that will disturb a certain amount of asbestos-containing material to provide DEQ/AQD with written notice of their intent to renovate, at least ten (10) working days before the commencement of renovation activities. This section further requires all such owners and operators to perform a thorough inspection of the renovation site for the presence of asbestos prior to commencing renovation.
4. On January 22, 2014, DEQ/AQD Inspector Mr. Robert Rodriguez visited the Best Western CottonTree Inn in Rawlins in response to an anonymous complaint regarding renovation activity. After his inspection, Mr. Rodriguez alleged that he viewed several pieces of cut up water tank insulation containing 65% chrysotile asbestos.
5. On March, 24, 2014, DEQ/AQD issued Notice of Violation 5396-14 to Spartan. The Notice of Violation alleged that Spartan was in violation of Chapter 3, Section 8 of the Air Quality Rules. The alleged violations were that Spartan failed to provide DEQ/AQD with pre-renovation notice and failed to perform a thorough inspection prior to renovation.

6. Without admitting liability, and in lieu of litigation pursuant to Wyo. Stat. Ann. § 35-11-901(a)(ii), Spartan agrees to pay to the DEQ/AQD the amount of two thousand six hundred twenty-five dollars and no cents (\$2,625.00) as a stipulated penalty to resolve the violations alleged in the aforementioned Notice of Violation. Spartan agrees to make full payment by check made payable to the Wyoming DEQ/AQD, within thirty (30) days after Spartan has been notified by DEQ/AQD that the final signature has been affixed to this Agreement. Spartan agrees to mail the payment to Ann Shed, DEQ/AQD, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002.

7. Spartan, by entering into this Agreement, does not concede or admit any liability, fault, or statutory noncompliance. Except as specifically provided for herein, nothing in this Agreement shall prejudice, waive, or impair any right, remedy, or defense that Spartan may have against any entity.

8. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Spartan arising from the allegations contained within the Notice of Violation and this Agreement. In reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against Spartan for these particular alleged violations. By this Agreement, the Parties intend to resolve with prejudice all allegations that are contained within the Notice of Violation and this Agreement.

9. In the event that Spartan fails to fulfill its obligations under this Agreement, Spartan waives any statute of limitation claims that may apply in an enforcement action by the DEQ/AQD involving the specific matters described in the Notice of Violation or otherwise set forth in this Agreement.

10. This Agreement shall be admissible by either Spartan or the DEQ/AQD without objection by the other party in any action between DEQ/AQD and Spartan relating to the violations alleged herein.

11. Each party assumes the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other. Neither DEQ/AQD nor Spartan shall have any claim against the other for attorneys' fees, or any other costs related to the preparation and resolution of this Agreement.

12. Any changes, modifications, revisions, or amendments to this Agreement are invalid unless mutually agreed upon by both parties, incorporated by written instrument, executed, and signed by all parties to this Agreement.

13. The laws of the State of Wyoming shall govern the construction, interpretation, and enforcement of this Agreement. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

14. This Agreement, consisting of four (4) pages represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

15. The State of Wyoming and the DEQ/AQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. Ann. § 1-39-104(a) and all other state law.

16. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The parties to this Agreement intend and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

17. Each party represents that they are authorized to enter into this Agreement, agrees to comply with and to be bound by the terms of this Agreement, and further agrees that they will not contest the basis or validity of this Agreement. This Agreement shall become binding upon the parties once executed.

[INTENTIONALLY LEFT BLANK]

IN WITNESS THEREOF, the parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

SPARTAN MECHANICAL, LLC:

By:


David Ferry
Owner-Member

5/27/2014
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:


Steven A. Dietrich, AQD Administrator

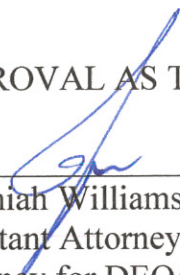
6-3-14
Date

By:


Todd Parfitt, DEQ Director

6/3/14
Date

APPROVAL AS TO FORM:


Jeremiah Williamson
Assistant Attorney General
Attorney for DEQ/AQD

6/3/14
Date